

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 531 – SB 675

April 15, 2013

SUMMARY OF ORIGINAL BILL: Broadens the definition of abuse or neglect for purposes of the Tennessee Adult Protection Act (the Act) to include a caretaker knowingly abandoning, leaving, or failing to pickup an adult if the caretaker knows or should know that the adult is unable to protect or care for him or herself without assistance or supervision and the caretaker's conduct results or causes a substantial risk of pain, injury, or mental anguish, or the deprivation of necessary services. Broadens the definition of a caretaker for purposes of the Act to include a family member that resides with, or in the same building with, the adult or regularly visits the adult or who knows or reasonably should know that the adult is unable to adequately provide for the adult's own care.

FISCAL IMPACT OF ORIGINAL BILL:

Increased State Expenditures - \$14,200/Incarceration*

SUMMARY OF AMENDMENT (006892): Deletes all language after the enacting clause. Broadens the definition of abuse or neglect for purposes of the Act to include transporting an adult and knowingly abandoning, leaving, or failing to provide additional planned transportation for the adult if the adult's caretaker knows, or should know, that the adult is unable to protect or care for himself or herself without assistance or supervision and the caretaker's conduct results, or causes a substantial risk of, pain, injury, or mental anguish, or the deprivation of necessary services. Redefines caretaker for purposes of the Act to mean an individual or institution that has assumed the duty to provide for the care of an adult by contract or agreement including a parent, spouse, adult child or other relative, both biological or by marriage, who resides with or in the same building with or regularly visits the adult, knows or reasonably should know of the adult's mental or physical dysfunction or advanced age, and knows or reasonably should know that the adult is unable to adequately provide for the adult's own care. Excludes from the definition of caretaker a financial institution as a caretaker of funds or other assets unless the financial institution has entered into an agreement to act as a trustee of such property or has been appointed by a court of competent jurisdiction to act as a trustee with regard to the property of the adult. Designates the bill as "Lynn's Law".

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Under current law, abuse or neglect is defined as the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caretaker or a situation in which an adult is unable to provide or obtain the services necessary to maintain the person's health or welfare. This definition of abuse or neglect is not changed by the bill.
- Under current law, a caretaker is defined as an individual or institution who has the responsibility for the care of the adult as a result of family relationship or who has assumed the responsibility for the care of the adult person voluntarily or by contract or agreement.
- Under current law, knowingly abusing, neglecting, or exploiting any adult within the meaning of the Act is a Class E felony.
- According to Department of Correction (DOC), the average admissions for the past ten years for knowing abuse, neglect, or exploitation of any adult within the meaning of the Act is 0.7 and three years is 2.33.
- According to the DOC, the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- The average time served for a Class E felony is 1.21 years
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 1.21 years (441.95 days) for an annualized total cost of \$14,180 $[(\$64.17 \times 441.95 \text{ days}) / 2]$.
- Due to the low number of convictions this bill would create, it is assumed that the courts, district attorneys general, and district public defenders can accommodate any impact to the caseloads within existing resources.
- According to the Commission on Aging and Disability, the bill will not affect current programs or operations of the Commission and the fiscal impact on the Commission will be not significant.
- According to the Department of Human Services, the bill could result in more investigations. Any increase in expenditures can be accommodated within the existing resources of the Department without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a more compact, stylized manner, followed by "D." and "Geise".

Lucian D. Geise, Executive Director

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